



BRIEFING NOTE TO THE COMMISSIONER

NOTE D'INFORMATION AU COMMISSAIRE

SEC 7 DELEGATION AUTHORITY – EMERGENCY MEASURES REGULATIONS

ISSUE:

- To confirm your decision on the delegation approach under section 7 of the Emergency Measures Regulations and provide info on next steps.

BACKGROUND:

- In response to the ongoing protests across Canada, the Governor in Council has proclaimed that a public order emergency exists, pursuant to subsection 17(1) of the *Emergencies Act*, and issued Emergency Measures Regulations (EMRs) under subsection 19(1) of the Act on February 15, 2022.
- The Regulations implicate the RCMP in two key areas:
 - Section 7 authorizes the Minister, Commissioner, or their delegate to request essential services for removal, towing and storage of vehicles, equipment, etc. that are part of a blockade.
 - Section 9 provides a mechanism for persons or companies directed to provide such services to be compensated at current market value for the goods or services. It also provides a mechanism to apply for compensation for loss, injury or damage as a result of anything done or purported to be done under the regulations.
- Pursuant to section 7(1) of the Emergency Measures Regulations and section 5 of the RCMP Act, you have the authority to sign a delegation that would permit a person to exercise these powers on your behalf.
- With respect to the Section 9(1) requirements related to compensation, the Department of Justice has confirmed that the RCMP has the legal authority under the *Financial Administration Act* (FAA) to make expenditures in relation to activities carried out under the Emergencies Act and related Regulations, even where the RCMP is not the police of jurisdiction.
- The Commissioner of the Ontario Provincial Police (OPP) has written to you requesting delegation of this authority for the OPP and the Ottawa Police Services (OPS) to support enforcement in Ottawa.

CURRENT STATUS:

- Within the RCMP, Criminal Operations (CROPS) Officers will be delegated authority under Section 7(1), as they have full awareness of the operational response in their area of responsibility, including work with other police partners. CROPS officers also have the appropriate financial delegations to approve related expenses within the RCMP.

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- Further to his request, you have delegated this authority to the Commissioner of the OPP and those acting on his behalf, conditional on his agreement that the OPP will provide compensation on behalf of Canada to any persons from whom the OPP Commissioner or any OPP police officer designated by him requisitions essential goods or services. The RCMP will reimburse OPP for the cost of such payments afterwards.
 - This will ensure that this power is available across Ontario, as the OPP is the provincial police force and has a legislated responsibility to assist other police forces in the province.
- There is currently no request for a similar delegation in Quebec. Should one be requested, you could also delegate this authority to the Director General of the Sûreté du Québec.

STRATEGIC CONSIDERATIONS:

- The RCMP does not have a source of funds for costs associated with the implementation of Sections 7-9 of the Emergency Measures Regulations, and there is significant uncertainty regarding future costs. In the short term, we have sufficient financial flexibility to cash manage any expenses, while we prepare and submit an off-cycle funding request.
- In addition, there is potential for significant liability for the RCMP, acting on behalf of Canada, given the operational risks associated with the execution of these powers, including where your authority is delegated to other police forces to carry out these powers. The RCMP will be assuming a high financial risk on behalf of Canada given there is no established source of funds to address any potential future litigation or provide appropriate compensation for expenses incurred. As such, it will be important to document these risks for the Minister, and clearly indicate that support will be required going forward.

NEXT STEPS

- C&IP and CFO will provide operational and financial guidance to CROPS officers for the exercise of these authorities within the RCMP, and ensure that appropriate systems are put in place to monitor use and cost.
- Once the Commissioner of the OPP returns the signed delegation instrument, the CFO will engage with her provincial counterpart on requirements for reimbursement to ensure compliance with the Emergency Management Regulations and the FAA.
- SPER will return to you with a proposed brief to the Minister of Public Safety updating him on the approach, outlining the related risks and costs for the RCMP, and the need for Government support to manage these pressures.

Submitted by – Rédigé par Steve Tharakan, Director	Date	Recommended by – Recommandé par Andrea Howard, Executive Director	Date
Approved by – Approuvé par Alison Whelan, CSPER	Date	Reviewed by – Examiné par	Date

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IN CONSULTATION WITH: Contract & Indigenous Policing; Federal Policing; Chief Financial Officer, Legal Services

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